

REMARKS/ARGUMENTS

Claims 1-49 are currently pending in the present patent application. Claims 1, 6, 11, 16, 20-21, 27-29, 31-32, 37-39, 45-47 and 49 are amended. Claims 50-52 are new. In view of at least the following, all currently pending claims are in condition for allowance, and, therefore, the Applicants' attorney requests that the Examiner withdraw all outstanding rejections. *However, if after considering this response the Examiner does not allow all of the claims, the Applicants' attorney requests that the Examiner contact him to schedule a telephone interview to further the prosecution of this application.*

Objection to the Drawings under 37 C.F.R. 1.83(a)

On page 2 of the current final Office Action, the Examiner asserts that the current Drawings do not show the features recited in the claims as "transmission period" and "base period." Applicants' attorney traverses the objection.

With respect to the term "base period," Applicants' attorney has amended the claims to recite the term "base time," which is used within the specification, and which is referenced within FIG. 3. Applicants' attorney respectfully requests that the Examiner withdraw the objection.

With respect to the term "transmission period," Applicants' attorney has amended FIG. 3 to overcome the objection, and includes that figure as a replacement sheet following this paper. Applicants' attorney respectfully requests that the Examiner withdraw the rejection accordingly.

Rejection of claims 1-49 under 35 U.S.C. § 112

On page 3 of the current final Office Action, the Examiner asserts that these

claims contain subject matter which was not described in the specification. Specifically, that the terms “transmission period” and “base period” are not found within the specification, and that the term “transmission latency” is well known in the art and can never be less than zero. Applicants’ attorney respectfully traverses the respective rejections.

Those claims rejected as reciting “base period” have been amended to instead recite the term “base time.” Referring, *e.g.*, to FIG. 3 and paragraphs [0031]-[0036] of the present application, “base time” appears within the specification. Applicants’ attorney respectfully requests that the Examiner withdraw the respective rejections pertaining to “base period” accordingly.

With respect to the term “transmission period,” Applicants’ attorney has amended independent claims 1, 6, 11, 16 and 20 to define the term. Applicants’ attorney respectfully requests that the Examiner withdraw the respective rejections pertaining to “transmission period” accordingly.

Finally, while the Examiner may be correct in his assertion that a meaning of “transmission latency” is known in the relevant art, Applicants’ attorney submits that the specification remains the primary lexicographer of the claims. Referring, *e.g.*, to FIG. 3 and paragraphs [0037]-[0045] of the present application, in an embodiment transmission latency refers to a measure of the change in the transmission period for one data packet, relative to the transmission period for one or more previous data packets. Thus, a transmission latency of less than zero indicates a transmission period that is less than that which was required for the transmission of at least one previous data packet. Applicants’ attorney respectfully requests that the Examiner withdraw the respective rejections pertaining to “transmission latency.”

Rejection of claims 1-4, 6-9, 11-14, 16-18, 20-23, 25, 27, 30, 33-34, 36-37, 40-42, 44-45 and 48 under 35 U.S.C. § 102(e) as being Anticipated by Ravikanth (U.S. Patent No. 6,327,274)

Claim 1

Claim 1 as amended recites determining a transmission period associated with a data packet, subtracting a base time from the transmission period to determine a transmission latency, and modifying the base time in response to the transmission latency being less than 0.

For example, referring to FIG. 3 and paragraphs [0031]-[0045] of the patent application, in an embodiment a transmission period associated with a data packet is determined by client computer **112** as being substantially the time elapsed between server computer **110** sending the data packet (*i.e.*, the timestamp placed within the data packet by server computer **110** at step **312**) and client computer **112** receiving a data packet. Client computer **112** subtracts a base time from the transmission time to determine a transmission latency at step **304**. If, in step **308**, transmission latency is determined to be less than 0, client computer **112** modifies the base time by subtracting the transmission latency from the existing base time in step **310**. Transmission latency is therefore a measure of a given packet's transmission period relative to a reference period, *i.e.*, the base time. The base time can be the transmission period of a previously received data packet. The previously received data packet can be the packet that was received immediately before the current data packet, or the previously received data packet can be a packet that was received anytime before the immediately preceding data packet. By modifying the base time after the transmission latency is determined to be less than 0, *i.e.*, when the base time is longer than the transmission period, the transmission latency for future data packets may be more accurately determined.

In contrast, Ravikanth fails to disclose modifying a base time in response to

the transmission latency being less than 0. Ravikanth appears to disclose a method for detecting a skew between two clocks. Clock skew or timing skew is the difference in the time identified by two different clocks at the same moment in time. For example, at time A, clock 1 might show a time of A-1, and clock 2 might show a time of A+1. As part of Ravikanth's method for detecting a skew between two clocks, the jitter between the transmission periods of two data packets that are sent sequentially is determined by subtracting the transmission period of the second data packet from the transmission period of the first data packet. By averaging successive jitter values over time, Ravikanth approximates the relative clock skew. However, even if the transmission period of one of Ravikanth's packets is interpreted as a reference period or base time, Ravikanth does not disclose tracking or altering that base time, and further, does not disclose doing so in response to a difference in the transmission period of a subsequent data packet being less than 0. Therefore, Ravikanth's method does not include modifying a base time in response to the transmission latency being less than 0.

Ravikanth does not satisfy the limitations of amended claim 1, and Applicants' attorney respectfully requests that the Examiner withdraw the respective rejection accordingly.

Claims 2-4 and 25-33

These claims are patentable at least by virtue of their respective dependencies from claim 1.

Claim 6

Claim 6 as amended is patentable for reasons similar to those discussed with respect to amended claim 1.

Claims 7-9 and 34-41

These claims are patentable at least by virtue of their respective dependencies from claim 6.

Claim 11

Claim 11 as amended is patentable for reasons similar to those discussed with respect to amended claim 1.

Claims 12-14

These claims are patentable at least by virtue of their respective dependencies from claim 11.

Claim 16

Claim 16 as amended is patentable for reasons similar to those discussed with respect to amended claim 1.

Claims 17-18 and 42-48

These claims are patentable at least by virtue of their respective dependencies from claim 16.

Claim 20

Claim 20 as amended is patentable for reasons similar to those discussed with respect to amended claim 1.

Claims 21-23 and 49

These claims are patentable at least by virtue of their respective

dependencies from claim 20.

**Rejection of claims 5, 8, 10, 15 and 19 under 35 U.S.C. § 103(a) as being
Unpatentable over Ravikanth**

These claims are patentable at least by virtue of their respective dependencies from amended claims 1, 6, 11, 16 or 20 as discussed above.

Conclusion

The absence of additional patentability arguments should not be construed as either a disclaimer of such arguments or that such arguments are not believed to be meritorious. In light of at least the reasons discussed herein, existing claims 2-5, 7-10, 12-15, 17-19, 22-26, 30, 33-36, 40-44 and 48, amended claims 1, 6, 11, 16, 20-21, 27-29, 31-32, 37-39, 45-47 and 49, and new claims 50-52 are in condition for allowance. Favorable consideration and a Notice of Allowance are respectfully requested. Should the Examiner have any further questions about the application, Applicant respectfully requests the Examiner to contact the undersigned attorney at (425) 455-5575 to resolve the matter.

In the event additional fees are due as a result of this amendment, you are hereby authorized to charge such payment to Deposit Account No. 07-1897.

Respectfully submitted,

GRAYBEAL JACKSON HALEY LLP



James J. Carter
Registration No. 56,043
155 – 108th Avenue NE, Suite 350
Bellevue, WA 98004-5973
(425) 455-5575 Phone
(425) 455-1046 Fax
jcarter@graybeal.com